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April 19, 2022

VIA ECF

Honorable Gabriel W. Gorenstein
United States Magistrate Judge
Southern District of New York
500 Pearl Street
New York, NY 10007

In Re: New York City Policing During Summer 2020 Demonstrations,
No. 20 Civ. 8924 (CM)(GWG)
This filing is related to all cases

Your Honor:

I am a Senior Counsel in the Office of Hon. Sylvia O. Hinds-Radix, Corporation Counsel of the City of New York, and I am among counsel for the defense in the above-referenced matter. I write in accordance with Rule 2.A of the Courts Individual Rules in response to plaintiffs' April 18, 2022 letter. (Dkt # 501).

As an initial matter, Ms. Weiss is on vacation this week and her input is needed for a more fulsome response to address some of the comments made in plaintiffs' letter. However, defendants did not want to delay on reporting to the Court as to the privilege log for the production made on April 15, 2022.

Contemporaneous preparation of a privilege log was not possible given the large volumes of material that we were collected, reviewed, and produced within such compressed timeframes. The entire team assigned to this matter has been working diligently and tirelessly to make last Friday's production. However, to ensure that privileges are being properly asserted, our workflow in this matter is to conduct a second pass review on all documents identified to be withheld in full for privilege. This second pass occurs once the first pass review is completed and allows us to confirm the privilege call or downgrade documents, and to add descriptions of the documents to a privilege log. Once the second pass review is completed, then we can export a log out of our document review platform.

In addition to the work to meet Friday's document production deadline, the case team also had multiple other competing priorities last week in these and other related cases, including deposition preparation, deposition defense, participating in meet and confers, responding to correspondence from plaintiffs' counsel, and preparing written responses to discovery demands. This was further compounded by the late receipt of thousands of pages of documents for review and production from NYPD last Wednesday evening and having to conduct first pass review of those documents up until Friday night. In addition, as last Friday was a religious holiday for at least three major religious, many were out of the office for the day for observances. Even so, to make the production deadline, some team members who were off, still assisted to meet Court's deadline. Because of these events, we did not know the full universe of documents identified to be withheld in full for privilege until virtually the same time as we were required to make the production and were unable to also produce the privilege log with the documents.

In an effort to get everything done last week, it was an oversight to not have requested more time to produce a privilege log for this voluminous production. Defendants apologize for this oversight and respectfully submit that there was no deliberate intent to not comply with a court order and no prejudice to plaintiffs warranting sanctions. Indeed, defendants completed and produced the privilege log today.

In light of the above, defendants respectfully request that the Court deny plaintiffs' application.

Thank you for your consideration herein.

Respectfully submitted,

Jenny Weng/s/

Jenny Weng
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cc: All Counsel (via ECF)